

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298



May 17, 1996

DOCKET FILE COPY ORIGINAL

VIA FEDERAL EXPRESS

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20036

Re: FCC 96-182
CC Docket No. 96-98

RECEIVED
MAY 20 1996
FCC MAIL ROOM

Dear Mr. Caton:

Please find enclosed for filing an original plus eleven copies of the COMMENTS OF THE PEOPLE OF THE STATE OF CALIFORNIA AND THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA ON THE NOTICE OF PROPOSED RULEMAKING in the above-referenced docket.

Also enclosed is an additional copy of this document. Please file-stamp this copy and return it to me in the enclosed, self-addressed postage pre-paid envelope.

Yours truly,

Mary Mack Adu
Attorney for California

MMA:jmc

Enclosures

11 of 11
0+11

ORIGINAL

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)

Implementation of the Local Competition)
Provisions in the Telecommunications Act)
of 1996)

CC Docket No. 96-98

RECEIVED

MAY 20 1998

COMMENTS OF THE PEOPLE OF THE STATE OF CALIFORNIA
AND THE PUBLIC UTILITIES COMMISSION OF THE STATE
OF CALIFORNIA ON THE NOTICE OF PROPOSED RULEMAKING

FCC MAIL ROOM

I. INTRODUCTION AND SUMMARY

The People of the State of California and the Public Utilities Commission of the State of California ("California" or "CPUC") hereby respectfully submit these comments to the Federal Communications Commission ("FCC" or "Commission") on the notice of proposed rulemaking ("NPRM"). The CPUC specifically submits these comments regarding dialing parity, number administration and access to rights-of-way. In the NPRM, the FCC requests comment on implementation issues of the local competition provisions in the Telecommunications Act of 1996 (hereinafter, the 1996 Act). The CPUC has already submitted comments to the FCC on other sections of the Commission's NPRM and will limit these comments to dialing parity, number administration, and access to rights-of-way.

The CPUC agrees with the Commission that section 251(b)(3) of the 1996 Act makes no distinction among international, interstate and intrastate traffic for purposes of dialing parity provisions. We further believe that the Act requires LECs to

permit customers to dial the same number of digits without regard to the identity of the caller's or called party's carrier.

The Commission suggests that it should develop requirements for sections 224(f) and 224(h), as established by section 703 of the 1996 Act. These sections deal with nondiscriminatory access to poles, ducts, conduits, or rights-of-way. The CPUC believes it is not necessary for the FCC to develop regulations for these sections at this time. The FCC should look at all of the issues regarding access to rights-of-way in its Pole Attachments NPRM which is scheduled for release next month. In this way, the FCC can deal with the issues comprehensively.

Regarding number administration, the CPUC agrees with the FCC's tentative conclusion that the Commission's North American Numbering Plan ("NANP") Order satisfies the requirement of section 251(e)(1) of the 1996 Act.¹ The CPUC is concerned, however, because full implementation of this Order may not take place for close to two (2) years, and during that time, seven (7) area codes will be exhausted in California. We have already authorized local exchange competition in California, and the administration of numbering resources by one of many competitors or a neutral third party is a controversial competitive issue which we believe should be resolved as soon as possible. The FCC

1. Section 251(e)(1) grants the Commission exclusive authority over portions of the North American Numbering Plan that pertain to the United States. The Commission may delegate any or all of its jurisdiction to state commissions.

should allow states with unique numbering administration problems to resolve these issues in the interim.

II. DIALING PARITY

A. The 1996 Act Mandates Dialing Parity for All Telecommunications Services That Involve A Dialing Route.

The Commission seeks comment on the dialing parity provisions of the 1996 Act. The FCC tentatively concludes that section 251(b)(3) creates a duty to provide dialing parity with respect to all telecommunications services that require dialing a route to call, including international, as well as interstate and intrastate, local and toll.² NPRM, ¶206. The CPUC believes that dialing parity is essential to opening up the telecommunications markets in a competitively neutral manner. Dialing parity will allow for more robust competition in local toll markets. Without it, LECs will have a competitive advantage over other local toll carriers. The 1996 Act mandates dialing parity within the borders of the United States. To the extent that calls originate within the United States, the FCC can mandate dialing parity for such calls.

2. Section 251(b)(3) provides that all local exchange carriers are obligated to provide the following: "DIALING PARITY - The duty to provide dialing parity to competing providers of telephone exchange service and telephone toll service, and the duty to permit all such providers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays."

IntraLATA equal access is not currently available in California even though intraLATA markets were opened to competitive entry in 1995. California cannot comment on many of the technical issues surrounding presubscription implementation since many of these issues are being addressed in an ongoing CPUC proceeding.³ NPRM, ¶210. California believes that the most contentious issues in its proceeding, the timing of intraLATA equal access, has been mooted by the Act. Now that this central issue has been resolved, the remaining technical issues surrounding intraLATA equal access can be more readily resolved.

B. Consumer Notice About Carrier Selection Procedures Should Be Required.

The FCC requests comments on whether it should require LECs to notify consumers about carrier selection procedures in choosing among competitive telecommunications providers. NPRM, ¶213. The CPUC believes that it should, notwithstanding the 1996 Act's failure to explicitly require such procedures. Notice need not be extensive, but it should be sufficient to permit consumers to make informed choices about which providers they would select in a competitive market. When the CPUC opened the intraLATA toll markets to competition, it required the LECs to send several

3. The CPUC is addressing intraLATA equal access issues in I.87-11-033 and has asked for comment on technical issues with an Administrative Law Judge's Ruling Establishing Procedure for Consideration of Intralata Equal Access of May 31, 1995.

notices to customers. These notices helped consumers make informed choices about the market.

**C. Nondiscriminatory Access Means the Same Access
That a LEC Would Provide to Itself or An
Affiliate.**

Comment is also sought on whether section 251(b)(3) imposes the duty on all LECs to provide competing telecommunications services providers with "nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing, with no unreasonable dialing delays." NPRM, ¶214. The CPUC believes that the Act's nondiscriminatory access provisions require the LEC's to offer telephone numbers, operator service, directory assistance and directory listings to competitors on the same terms that it offers to itself and its affiliates.

In other words, the LEC should not show favoritism toward itself or its affiliates, or bias against service providers trying to enter the market. This interpretation is consistent with the 1996 Act's definition of dialing parity which specifically directs "that a person that is not an affiliate of a local exchange carrier" be able to automatically route calls without the use of any access code ⁴ Any analysis of discrimination under the Act should compare how a LEC treats itself or its affiliates, vis a vis competing service providers.

The CPUC's interpretation is also consistent with section 253 of the Act which forbids anything that "may prohibit or have

4. 1996 Act, sec. 3, §3(15)

the effect of prohibiting the ability of any entity to provide interstate or intrastate telecommunications service." Unequal access to telephone numbers, operator services, assistance, and directory listings would surely inhibit the ability of competing service providers to furnish the array of services provisioned by the LEC, thereby placing it at a distinct disadvantage.

III. The FCC Should Examine the Issues Involved With Access to Rights-of-Way in its Pole Attachments NPRM.

The Commission suggests that it should develop requirements regarding sections 224(f) and 224(h), as established by section 703 of the 1996 Act. NPRM ¶221-225. The Commission states that it should address these issues, "to ensure that we have an opportunity to seek comment and establish any rules necessary to implement section 251(b)(4) within the six month period established by the statute." NPRM, ¶221. It is not necessary for the FCC to develop regulations for these sections at this time. The FCC should look at all of the issues regarding access to rights-of-way in its Pole Attachments NPRM which is scheduled for release next month. In this way, the FCC can deal with the issues comprehensively.

In California, the CPUC is currently examining rights-of-way issues. The CPUC will be including electric utilities in the proceeding and has scheduled a workshop on the issue next month. The CPUC in an earlier workshop developed a list of issues with industry participants, and general consensus was reached that electric utilities must be included in any development of rules. In addition, parties recommended issues that should be addressed

before the CPUC adopts rules to ensure nondiscriminatory access to rights of way, poles and conduit. The CPUC intends to clarify these issues in an upcoming ruling and conduct another workshop which will include electric utilities. The CPUC contends that the FCC must resolve many of these same issues, for which section 703 provides some much needed guidance. To set rules for sections 251(b)(4), 224(f) and 224(h) at this time would not allow parties sufficient time to analyze the issues.

IV. The FCC Should Allow States With Unique Numbering Administration Problems to Resolve These Issues Until the North American Numbering Council is Operational.

California agrees with the tentative conclusion that the Commission's North American Numbering Plan ("NANP") Order satisfies the requirement of section 251(e)(1) of the 1996 Act. NPRM ¶252. In this order, the FCC established the North American Numbering Council ("NANC") as a replacement for Bellcore. The CPUC completely supports NANC, however, NANC will not be fully operational until 18 months after its charter is approved, which has not yet occurred. This raises a concern for the CPUC because California has seven (7) area codes which will be exhausted during the next two (2) years.

The FCC suggests that until NANC is up and running, Bellcore should continue as the NANP Administrator, and LECs should continue as central office code administrators. NPRM, ¶258. In California, the current state central office code administrator, Pacific Bell, and the Competitive Local Carriers ("CLCs") agree that Pacific should not continue to serve as code administrator

as California implements its local competition policies. These parties have recommended that the CPUC serve as central office code administrator until NANC has developed its policy on numbering administration. The CPUC is currently exploring whether a code administration transfer would be in the best interest of the California telecommunications industry. California urges the Commission to allow states with unique numbering administration problems to resolve these issues in the interim.

The FCC also tentatively concludes that the Ameritech Order should continue to provide guidance to states regarding how new area codes can be lawfully implemented. NPRM, ¶256. The CPUC agrees that any area code relief plan must adhere to the guidelines of the Ameritech Order. Additionally, the CPUC would like to encourage the Commission to develop a policy beyond these guidelines, and compile a "preferred outcome" list for determining when an area code overlay would be appropriate. For instance, in the establishment of California's 310/562 Area Code Decision (D.95-08-052), the CPUC stated that the existence of mandatory 1+10 digit dialing and long term local number portability would be necessary precursors to an overlay plan in the 310 Area Code. The CPUC suggests that these prerequisites could form the beginning of a federal "preferred outcome" list for overlays to ensure a competitively neutral approach to area code administration.

V. Conclusion

The CPUC respectfully submits these comments on dialing parity, access to rights-of-way, and number administration for your consideration in this interconnection rulemaking.

Respectfully submitted,

PETER ARTH, JR.
EDWARD W. O'NEILL
MARY MACK ADU

By:


Mary Mack Adu

Attorneys for the People of the
State of California and the
Public Utilities Commission
of the State of California

505 Van Ness Avenue
San Francisco, CA 94102
(415) 703-1952

May 17, 1996

CERTIFICATE OF SERVICE

I, Mary Mack Adu, hereby certify that on this 17th day of May, 1996, a true and correct copy of the forgoing **COMMENTS OF THE PEOPLE OF THE STATE OF CALIFORNIA AND THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA ON THE NOTICE OF PROPOSED RULEMAKING** was mailed first class, postage prepaid to all known parties of record.



Mary Mack Adu